

REMARKS

Reconsideration of the application is respectfully requested.

Claims 51 and 54-57 are in the application. Claim 51 has been amended.

Claims 51 and 54-57 presently stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Widerstrom (U.S. Patent No. 4,787,536). In response to Applicants' previous arguments, the Examiner stated in an Advisory Action mailed on August 8, 2005:

...applicant argues that limitations from the specification should be read into the last phrase of claim 51. Specifically, applicant contends the claim is limited so that the diaphragm remains in a deflected position after the actuation force on the diaphragm is removed. However, the claim does not specify when and under what conditions that the diaphragm remains in a deflected position. Widerstrom clearly discloses that the diaphragm remains in the deflected position at least when the actuation force remains on the diaphragm. Therefore, Widerstrom meets this limitation. Furthermore, applicant mischaracterizes the Widerstrom reference when discussing the possibility of multiple dosages. Widerstrom discloses that the diaphragm moves from the initial to the deflected position and specifically discloses that the completely depressed position is the inwardly curved final position (See column 3, lines 44-47). This permanent, final position is the deflected position and this dispenses the metered dose. The possibility of a second dose is due to the second diaphragm which would further reduce the volume of the interior when actuated (again to a permanently deformed position).

Applicants traverse the Examiner's assertions.

To further clarify the previous language of claim 51— particularly to clarify that the phrase “said diaphragm remaining in said deflected position” means remaining in the deflected position under all circumstances, with or without force being applied thereto—Applicants have amended claim 51 to further specify “said diaphragm remaining in said deflected position without any force being applied thereto”. It is clear that the diaphragm remains deflected under all circumstances, with or without force being applied thereto.

As for Widerstrom, Applicants disagree with the Examiner’s interpretation of the reference. It appears that the Examiner is relying on the statement that the curved portions 8b and 9b each achieve a “curved final position”, as represented by the dashed line in Figure 3. (See column 3, lines 46-48). It is respectfully submitted that the reference to the word “final” is to a final position during a dispensing step and not a “final” deformed position, as asserted by the Examiner. As indicated in Applicants’ previous arguments, Widerstrom desires multiple dosages. (See column 3, lines 50-52; column 3, lines 60-62). To enable multiple dosages, the curved portions 8b, 9b must return to their original shape to allow for dosage administration. It appears to be the Examiner’s position that each curved portion 8b, 9b is used to administer a dose, with each curved portion 8b, 9b being permanently deformed after administration. Under the Examiner’s interpretation,

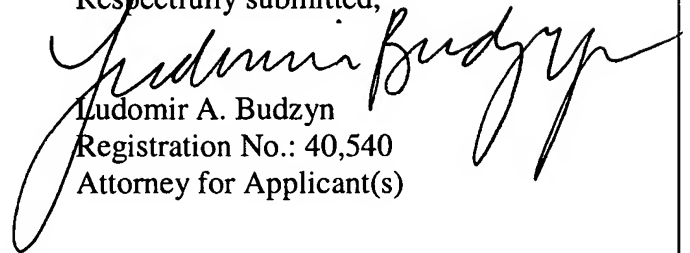
only two doses can be handled by Widerstrom since only two curved portions 8b and 9b are provided for administration. However, as stated at column 3, lines 50-52, Widerstrom contemplates a reservoir of “two or more dosages”. To accommodate more than two dosages, the curved portions 8b and 9b must return to an original, undeformed state to permit multiple administrations. In addition, the dispensing of a dose is described in the context of squeezing together two or more opposing fingers: “the slightly curved portions 8b and 9b can easily be deformed by squeezing by means of two or more fingers (the thumb on one side and e.g. the fore finger on the opposite side).” (column 3, lines 40-43). Deformation on one curved portion 8b, 9b versus the other curved portion cannot be controlled when squeezing together the pieces.

To the extent that deformation is present in the curved portions 8b, 9b, it is only under force of actuation and no more. The curved portions 8b, 9b must return to their respective original states to allow for multiple dosing, particularly beyond two dosages. Accordingly, there is no disclosure or suggestion in Widerstrom to provide a diaphragm which remains in a deflected position without any force being applied thereto, as set forth in claim 51. It is respectfully submitted that claims 51 and 54-57 are patentable over Widerstrom.

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Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the number listed below.

Respectfully submitted,



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